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10/574,063	11/10/2006	Geertruida Lotte Alida Boterkooper	0470-060991	9778

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EXAMINER	
BEKKER, KELLY JO	
ART UNIT	PAPER NUMBER
1781	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/574,063	BOTERKOOPER ET AL.	
	Examiner	Art Unit	
	KELLY BEKKER	1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *45-54,56-61 and 63-82* is/are pending in the application.

4a) Of the above claim(s) *76-82* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *45-54,56-61 and 63-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Amendments made June 30, 2010 have been entered.

Specification

The objection to the disclosure, due to a lack of description for the drawings has been withdrawn in light of applicant's amendments made June 30, 2010.

Claim Rejections - 35 USC § 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The 112 second paragraph rejection of claims 51-53, 58, 59, 61, 63, and 65-68 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention due to the recitation of the term "such as" in claims 51-53, 58, 59, 61, 63, and 65-67, a broad range followed by a more narrow range as recited in claims 53, 58, 59, 61, 63, and 65-67, and the recitation "hydrolyzed lactose preparation" as recited in claim 69 has been withdrawn in light of applicant's amendments made June 30, 2010.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The 102(b) rejection of claims 45, 51-53, 57-61, 63-65, 71, and 73-75 under 35 U.S.C. 102(b) as being anticipated by Vaghela et al (US 6,596,333 B1) has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The 103(a) rejection of claims 46-50 and 72 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Grey et al (US 6,497,913 B1) has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The 103(a) rejection of claims 54 and 56 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Applicant's Admitted Prior Art has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The 103(a) rejection of claim 66 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Igoe et al (Dictionary of Food Ingredients 3rd Edition, page 84) has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The 103(a) rejection of claim 68 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of the combination of Martin, Jr. et al (US 6,352, 734 B1) and Stimpson et al (US 2,738,279), as evidenced by Arbuckle, Ice Cream 2nd Edition page 37 has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The 103(a) rejection of claim 69 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of D'Amato (US 5,586,689) has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The 103(a) rejection of claim 70 as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Riviere et al (US 6,558,729 B1) has been withdrawn in light of applicant's amendments made June 30, 2010; Specifically, Veghela does not teach the ice cream as comprising at least 50% monosaccharides based on its sugar content.

The following rejections have been necessitated by applicant's amendments made June 30, 2010:

Claims 45, 51-53, 57-61, 63-65, 67, 71, and 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1).

Vaghela et al (Vaghela) teaches forming a stable frozen confections including ice cream by freezing an ice cream mix comprising ice cream ingredients and an emulsifier mixture (abstract and Column 1 line 59 through Column 2 line 6). Vaghela teaches that the ice cream mix which is a conventional mixture which comprises 0.01-3%, preferably 0.01-1% of an emulsifier blend (Column 4 lines 22-44 and Column 4 line 60 through Column 5 line 21). Vagehla teaches that the emulsifier blend which consists of at least one emulsifier, preferably selected from the group consisting of propylene glycerol monosterate, sorbitan tristerate, and saturated monoglycerides (Column 4 lines 22-44 and Column 4 line 60 through Column 5 line 21). Veghela teaches that the emulsifier blend preferably including about 0.01-0.2% unsaturated monoglycerides, which is 100% based on weight of the preferred unsaturated emulsifiers and preferably from 2-100% (0.01% unsaturated monoglyceride/1% total emulsifier- 0.2% unsaturated monoglyceride /0.2% total emulsifier) based on weight of the total emulsifier in the ice cream (Column 4 lines 22-44 and Column 4 line 60 through Column 5 line 21), about 10-15% sugar including sucrose, lactose, and dextrose (Column 4 lines 33-44 and 53-55), about 3-8% sweetener comprising corn sweeteners including corn syrup solids (Column 4 lines 32-44 and 53-67), about 0.5-15% fat comprising dairy fat or non-dairy fat or a mixture of both, wherein the non-dairy fat comprises vegetable oil, preferably including coconut oil, palm kernel oil, and combinations thereof in a ratio of 0-100 (Column 3 lines 34-52), about 6-15% nonfat milk solids (Column 4 lines 33-44), about 0.1-1% stabilizers including guar gum, locust bean gum, and carrageenan (Column 4 lines 33-44 and Column 5 lines 22-26). In example 1, Vaghela exemplifies that the fat consist of 100% vegetable oil. In example 3, Table I, Vaghela teaches that the composition includes less than 0.5% stabilizers, including 0.15% guar gum and 0.2%

carrageenan. Vaghela teaches that the frozen product is packaged into bulk containers, extruded into bars or cones, or packed into small containers (Column 6 lines 20-24).

Regarding the composition as include "at least 0.2% unsaturated emulsifiers", as "at least 0.2%" encompasses 0.2% and Vaghela teaches about 0.2% unsaturated emulsifier and the term "about" means near or close to, the references anticipates the instantly claimed rage of "at least 2% unsaturated emulsifier". Furthermore, as Vaghela teaches that the composition comprises up to about 3% of an emulsifier blend which comprises at least one emulsifier, including one preferably selected from the group consisting of propylene glycerol monosterate, sorbitan tristerate, and saturated monoglycerides (Column 4 lines 22-44 and Column 4 line 60 through Column 5 line 21), the teachings of Veghela further suggest the inclusion of up to 3% unsaturated emulsifier within the ice cream composition and to include a known emulsifier within a known range would have been optimization of a known range and thus would have been obvious and routine determination to one of ordinary skill in the art.

Regarding the freezing point of the ice cream mix as -3.5C or lower as recited in claims 45 and 71, -4C or lower as recited in claim 74, or -4.5C as recited in claim 75, as Vaghela teaches of a composition with substantially the same composition, one of ordinary skill in the art would expect that the composition of Vaghela have substantially the same properties, including freezing point, as the instantly claimed invention, absent any clear and convincing arguments and/or evidence to the contrary. This position is further supported as Vaghela teaches that the confection requires freezing depending on the freezing point of the mix and that freezing is typically conducted at preferably about -5C to -6C (Column 6 lines 12-19), which is lower than -3.5C, -4C, and -4.5c as instantly claimed.

Vaghela is silent to sugar as comprising at least 50% monosaccharides as recited in claim 45.

Martin Jr. et al (Martin) teaches of frozen dairy products having surprising stability, organoleptic, and body characteristics (Column 1 lines 5-10). Martin teaches that the products have desirable texture with unique organoleptic properties (Column 3 lines 37-41). Martin teaches that sweetener composition preferably includes a

combination of 2-8% corn syrup and the sugars comprising 5-10% sucrose and 4-12% dextrose to provide the desired level of sweetness and texture to the frozen product and to decrease the freezing point of the mixture to allow for uniform and stable incorporation of air (Column 5 lines 3-17 and 30-43).

Regarding the sugar component as at least 50% monosaccahrides, it would have been obvious to one of ordinary skill in the art to use the sweetener composition of Martin, including 2-8% corn syrup, 5-10% sucrose, and 4-12% dextrose in the frozen confection of Vaghela. One would have been motivated to use the sweetener composition of Martin in order to form a final product with a desirable sweetness, texture, and which was able to allow for uniform and stable air incorporation. The combined references thus teach an ice cream composition comprising about 3-8% corn syrup as a sweetener and about 10-15% sugars comprised of a combination of 5-10% sucrose and 4-12% dextrose. Thus teaching that the sugar ingredient comprises about 33% monosaccharides (10% sucrose which is a disaccharide and 5% dextrose which is a monosaccharide) up to about 66% monosaccharides (5% sucrose which is a disaccharide and 10% dextrose which is a monosaccharide), which encompasses the instantly claimed range. As dextrose was less sweet than sucrose, it would have been further obvious to one of ordinary skill in the art to use the combination with the greater amount of dextrose and thus monosaccharides to obtain a less sweet composition. To alter the sweetness in the final product within known ranges would have been obvious and routine determination to one of ordinary skill in the art.

Claims 46-50 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of Grey et al (US 6,497,913 B1).

Vaghela teaches forming a stable ice cream from an ice cream mix preferably comprising about 0.2% unsaturated monoglyceride emulsifiers as discussed above. Vaghela is silent to the unsaturated emulsifier, monoglycerides as at least 0.25% as recited in claims 46 and 72 or at least 0.3% as recited in claim 47 and at most 1% as recited in claim 48 or 0.75% as recited in claim 49 or 0.5% as recited in claim 50.

Grey et al (Grey) teaches that reduced gas cell sizes in frozen confections enhances the creaminess of the final product (Column 1 lines 36-54). Grey teaches that preferably the use of an unsaturated emulsifier monoglyceride at about 0.67%-5%, preferably about 1.25-2.5% of the fat level of the confection allows for the production of ice cream with smaller gas cells (Column 6 lines 13-25). Grey teaches that the fat in the ice cream mix is from 2-15% (Column 5 lines 54-61) and thus the amount of unsaturated emulsifier in the mix is from about 0.01-0.75%, preferably from 0.25-0.375%.

Regarding the unsaturated emulsifier as at least 0.25% as recited in claims 46 and 72 or at least 0.3% as recited in claim 47 and at most 1% as recited in claim 48 or 0.75% as recited in claim 49 or 0.5% as recited in claim 50, it would have been obvious to one of ordinary skill in the art to increase the amount of unsaturated emulsifier in the ice cream as taught by Vaghela to about 0.01-0.75%, preferably 0.25-0.375% of the ice cream mix in view of Grey. One would have been motivated to do so in order to form a final product with enhanced creaminess as taught by Grey. Furthermore, as Grey teaches that the emulsifier is included at a rate based upon the amount of fat in the confection, It would have been obvious to vary the range of the unsaturated emulsifier within the range of about 0.01-0.75% depending on the fat content of the confectionary product produced.

Claims 54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of Applicant's Admitted Prior Art.

Vaghela teaches forming a stable ice cream from an ice cream mix with a freezing point of -5C to -6C and comprising 10-15% sugar including sucrose, as discussed above. Vaghela is silent to the sugar as being selected to achieve a freezing point of the ice cream mix of -3.5C or lower.

Applicant admits, Specification, page 2 line 29 through page 3 line 8, that ice cream having fewer and/or smaller ice crystals was known to have improved taste and

that in order to obtain ice cream with such a quality, it has been attempted in the art to lower the freezing point of the mix to -3.5C or lower by altering the sugar.

Regarding the sugar as being selected to achieve a freezing point of the ice cream mix of -3.5C or lower, it would have been obvious to one of ordinary skill in the art to ensure that the freezing point of the ice cream mix taught by Vaghela was lower than -3.5C by adjusting the sugar content, in order to ensure that the final product had an improved taste, as was known to do in the art, as admitted by applicant.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of Igoe et al (Dictionary of Food Ingredients 3rd Edition, page 84).

Vaghela teaches forming a stable ice cream from an ice cream mix comprising stabilizers including locust bean gum. Vaghela does not teach how much of the stabilizer locust bean gum is included in the ice cream mix.

Igoe et al (Igoe), page 84, teaches that locust bean gum provides high viscosity and functions as a water binder. Igoe, page 84, teaches that locust bean gum is included in ice creams and is typically used at levels of 0.1-1%.

Regarding the amount of amount of locust bean gum in the ice cream composition, it would have been obvious to one of ordinary skill in the art for the stabilizer including locust bean gum to be 0.1-1% locust bean gum in order to form a final product that was firm as a result of a high viscosity and bound water from the locust bean gum as taught by Igoe. To vary the amount of known stabilizers within their known composition range and based upon their known function would have been obvious and routine determination to one of ordinary skill in the art.

Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of Stimpson et al (US 2,738,279), as evidenced by Arbuckle, Ice Cream 2nd Edition page 37.

Vaghela teaches forming a stable ice cream from an ice cream mix comprising about 6-15% nonfat milk solids, about 3-8% sweetener comprising corn sweeteners including corn syrup solids and about 10-15% sugar including sucrose and dextrose, as discussed above. Vaghela is silent to the composition as specifically comprising 5-10% hydrolyzed lactose, 2-8% sucrose, and 10-22% dextrose as recited in claim 68.

Martin Jr. et al (Martin) teaches of frozen dairy products having surprising stability, organoleptic, and body characteristics (Column 1 lines 5-10). Martin teaches that the products have desirable texture with unique organoleptic properties (Column 3 lines 37-41). Martin teaches that sweetener composition preferably includes a combination of 2-8% corn syrup and the sugars comprising 5-10% sucrose and 4-12% dextrose to provide the desired level of sweetness and texture to the frozen product and to decrease the freezing point of the mixture to allow for uniform and stable incorporation of air (Column 5 lines 3-17 and 30-43).

Stimpson et al (Stimpson) teaches that the milk solids in ice cream is usually in the order of 9-11% and that at levels above 11% the lactose content gives rise to serious problems in ice cream storage. Stimpson teaches that the lactose is supersaturated and has a tendency to crystallize giving rise to gritty conditions. Refer specifically to Column 1 lines 32-45. Stimpson teaches that if hydrolysis of the lactose occurs, the problem is overcome (Column 2 lines 5-28). Stimpson teaches that the final ice cream product has a nonfat milk solids content of 10-14%, wherein the milk solids wherein at least 40% of the lactose has been hydrolyzed (Column 4 lines 15-31). Stimpson teaches that all of the lactose is hydrolyzed (Column 3 lines 10-15).

As evidenced by Arbuckle, page 37, nonfat milk solids contain about 55.5% lactose.

Regarding the composition as comprising 5-10% hydrolyzed lactose, it would have been obvious to one of ordinary skill in the art to hydrolyze all of the lactose in the 6-15% nonfat skim milk solids as taught by Vaghela in view of Stimpson. One would have been motivated to do so in order for the final ice cream product to have less tendency to crystallize and form a gritty texture as taught by Stimpson. The product of Vaghela in view of Stimpson would thus contain 6-15% nonfat milk solids wherein all of

the lactose is hydrolyzed. As evidence by Arbuckle nonfat milk solids contain about 55.5% lactose, thus the product of Vaghela in view of Stimpson comprises about 3.3-8.3% hydrolyzed lactose.

Regarding the composition as comprising 2-8% sucrose and 10-22% dextrose, it would have been obvious to one of ordinary skill in the art to use the sweetener composition of Martin, including 2-8% corn syrup, 5-10% sucrose, and 4-12% dextrose in the frozen confection of Vaghela. One would have been motivated to use the sweetener composition of Martin in order to form a final product with a desirable sweetness, texture, and which was able to allow for uniform and stable air incorporation. The combined references thus teach an ice cream composition comprising about 3-8% corn syrup as a sweetener and about 10-15% sugars comprised of a combination of 5-10% sucrose and 4-12% dextrose. As dextrose was less sweet than sucrose, it would have been further obvious to one of ordinary skill in the art to use the combination with the greater amount of dextrose to obtain a less sweet composition. To alter the sweetness in the final product within known ranges would have been obvious and routine determination to one of ordinary skill in the art.

Claims 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of D'Amato (US 5,586,689).

Vaghela teaches forming a stable ice cream which is packaged, as discussed above. Vaghela is silent to the type of package that is utilized for the ice cream, specifically to the package as a squeezable container as recited in claim 69.

D'Amato teaches a squeezable container especially for ice cream, wherein the container does not leak and allows the consumer to eat the ice cream by hand (abstract and Column 1 lines 15-25).

Regarding the ice cream package as a squeezable container, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the ice cream package of Vaghela to be a squeezable container in view of D'Amato. One would have been motivated to use the squeezable container of D'Amato for the ice

cream in order to form a final product which did not leak and was a single serving that could be eaten by the consumer without utensils, and thus on the run.

Claims 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghela et al (US 6,596,333 B1) in view of Martin, Jr. et al (US 6,352, 734 B1), further in view of Riviere et al (US 6,558,729 B1).

Vaghela teaches forming a stable ice cream which is packaged, as discussed above. Vaghela is silent to the type of package that is utilized for the ice cream, specifically to the package as an aerosol as recited in claim 70.

Riviere et al (Riviere) teaches of frozen desserts which are packageable in aerosol containers, i.e. pressured containers that contain a gas or propellant (abstract, Column 2 lines 45-53 and Column 6 lines 32-39).

Regarding the ice cream as packaged in an aerosol container, it would have been obvious to one of ordinary skill in the art to package the ice cream as taught by Vaghela in an aerosol container in view of Riviere. One would have been motivated to do so in order for final product which would be easily removed (with the aerosol assistance) from the container for serving.

Response to Arguments

Applicant's arguments filed June 30, 2010 have been fully considered but they are not persuasive.

Applicant argues that the new claim amendments are not addressed by Vaghela; the 102(b) rejection over Veghela has been withdrawn in light of applicant's amendments made June 30, 2010.

Applicant argues that the cited prior art does not make obvious the increased monosaccharide levels and the emulsifier content as at least 0.2% which is the upper limit taught by Veghla and that any such obviousness is hindsight. Applicant's argument is not convincing as the limitations of increase monosaccharides and at least 0.2% unsaturated emulsifiers have been clear addressed above. In response to applicant's argument that the examiner's conclusion of obviousness is based upon

improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argues that the references do not teach of a composition with the freezing point as instantly claimed. Applicant's argument is not convincing as Vaghela teaches of a composition with substantially the same composition, one of ordinary skill in the art would expect that the composition of Vaghela have substantially the same properties, including freezing point, as the instantly claimed invention, absent any clear and convincing arguments and/or evidence to the contrary. This position is further supported as Vaghela teaches that the confection requires freezing depending on the freezing point of the mix and that freezing is typically conducted at preferably about -5C to -6C (Column 6 lines 12-19), which is lower than -3.5C, -4C, and -4.5c as instantly claimed.

Applicant argues that the amount of monosaccharides and unsaturated emulsifiers in the ice cream is critical as evidence by examples A-F, wherein preparations B, D, and F fall within the scope of amended claims 45 and 71. Initially it is noted that the claims recite "at least 0.2%" unsaturated emulsifier and preparation B recites 0.2% unsaturated emulsifier, thus establishing that 0.2% unsaturated emulsifier, such as taught by Veghela, encompasses "at least 0.2%" as instantly claimed. Applicant's evidence is not convincing as the instantly claimed critical ranges, including above 50% monosaccharides and at least 0.2% unsaturated emulsifier would have been obvious to form ice cream of Vaghela in view of Martin as stated above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY BEKKER whose telephone number is (571)272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kelly Bekker/
Examiner
Art Unit 1781